

Chapter CCLXIX.¹

RECESS.

1. Motion for, not privileged. Sections 3354–3359.
 2. General decision as to taking. Sections 3360, 3361.
 3. Committee of Whole takes recess only by permission of House. Section 3362.
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3354. A motion for a recess is without privilege under the rules.

On December 13, 1912,² the Committee of the Whole House on the state of the Union rose and Mr. Joseph T. Robinson, of Arkansas, the Chairman, reported that the committee had had under consideration the Indian appropriation bill and had come to no conclusion thereon.

Mr. S. A. Roddenbery, of Georgia, asked recognition to offer a motion that the House take a recess until 8 o'clock in the evening for the purpose of resuming consideration of the bill at that time.

The Speaker³ said:

That is not privileged under the rules. It can not be done except by unanimous consent.

The gentleman from Georgia asks unanimous consent that the House not take a recess until 8 o'clock to-night, the session to continue not later than 11 o'clock, for the further consideration of the Indian appropriation bill. Is there objection?

3355. A motion for a recess is not privileged against a demand for the regular order regardless of whether there is a question under debate in the House.

On May 5, 1924,⁴ Mr. Louis C. Cramton, of Michigan, Chairman of the Committee of the Whole on the state of the Union, reported to the House that that committee, having had under consideration the bill (H. R. 7385) to provide for the expeditious and prompt settlement by mediation, conciliation, and arbitration of disputes between carriers and their employees, had come to no resolution thereon.

Whereupon, Mr. Alben W. Barkley, of Kentucky, moved that the House stand in recess until 11 o'clock on the following day.

Mr. Nicholas Longworth, of Ohio, submitted that such a motion was without privilege and demanded the regular order.

Mr. Barkley contended that while the motion for a recess was not included in the list of motions given privileged status under the rules when a question was under

¹ Supplementary to Chapter CXXXIX.

² Third session Sixty-second Congress, Record, p. 624.

³ Champ Clark, of Missouri, Speaker.

⁴ First session Sixty-eighth Congress, Record, p. 7890.

debate in the House, it was nevertheless in order when there was no question under debate as in the present instance.

The Speaker¹ said:

The gentleman from Kentucky offers a motion to recess, and claims that he has a right to make it, which means, of course, that it is privileged, because no motion can be made in the House which has not privilege when the regular order is demanded.

The Chair is not aware of any motion which can be made against the demand for the regular order except a privileged motion, and the rules state which are privileged. The motion to recess, up to 30 years ago, was privileged, and it was dropped for an express purpose, of course, namely, so that it could not be made.

Now, the gentleman from Kentucky argues that it is in order because in these 30 years there is no precedent against it.

It seems to the Chair the fact that nobody up to this time has ventured to make the motion is pretty good evidence that it is not in order, because there have been ingenious men in the House during the last 30 years and if there were any plausible excuse for making the motion some one would have attempted it.

The gentleman can cite no precedents justifying his motion, and the fact no one has ventured to make the motion in 30 years, so far as we know, is pretty good evidence that it is not in order.

The Chair sustains the point of order.

3356. While the motion to recess is not privileged against a demand for the regular order, it is frequently entertained by consent.

Prior to 1880 the rules made no provision for consideration of a proposal to recess, but with the revision of that year the motion to recess was given privileged status and so continued until omitted in the revision of 1890.

The motion to recess to the regular hour of meeting on the succeeding day is not admissible because in contravention of a standing order of the House, but if taken to such hour, the House when convened is still in session as of the preceding day.

A recess does not terminate a legislative day and a legislative day may not be terminated during recess.

A legislative day has not begun until the preceding legislative day has been terminated by adjournment.

On Saturday, February 18, 1911,² the legislative day of Friday, February 17, the House was called to order by the Speaker at the conclusion of a recess taken on the previous afternoon.

Immediately, Mr. Thetus W. Sims, of Tennessee, moved that the House resolve itself into the Committee of the Whole House for the resumption of consideration of the bill (S. 7971) the omnibus claims bill, on the private calendar and under consideration when the House recessed on Friday.

Mr. James R. Mann, of Illinois, objected to the motion and demanded the regular order on the ground that it was a new legislative day and Friday business was not in order.

Mr. Sims contended that it was still the legislative day of Friday and Friday business from the private calendar was therefore the regular order.

¹ Frederick H. Gillett, of Massachusetts, Speaker.

² Third session Sixty-first Congress, Record, p. 2848.

The Speaker ruled:¹

By constitutional provision the House can not adjourn without the consent of the Senate for a longer period than three days. The House has determined by an order, which is equivalent to a rule, that the daily meeting shall be at 11 o'clock, at which time the Journal shall be read, and so forth, and then comes the daily order of business.

Now, it is quite competent for the House, by unanimous consent, to fix a different time for meeting. For instance, the House has made an order, which has the dignity of a rule, that it shall meet to-morrow, Sunday, at 12 o'clock. There is not anywhere in the rules, so far as the Chair can find, anything said about a recess prior to 1880. An amendment to the rules adopted at that time made a motion to take a recess a privileged motion. In 1890 the provision providing for a recess was dropped out, and it has been continually left out from that time down to the present. Yet, in practice, from time to time the House has taken recesses.

Now, if the House had adjourned yesterday prior to 11 o'clock the adjournment would, by virtue of an order, which is in effect, if not in form, a rule of the House, have been to meet again at 11 o'clock to-day. But it seems that the House on the calendar day of yesterday made an order to take a recess until 11 o'clock to-day, which brought the expiration of the recess to the exact hour that the standing order provided for the daily meeting. On the daily meeting, the beginning of the legislative day, the Journal would be read, and so forth.

Now, it is perfectly clear to the Chair that if a point of order had been made against the motion to take a recess until 11 a.m. to-day the point of order would have been sustained, since that motion had the effect of abrogating a standing order of the House, namely, that the House shall meet daily in regular session at 11 o'clock.

Now, it seems that, notwithstanding the rules of the House, the House did in fact agree to a motion to stand in recess until 11 o'clock this morning. Having recessed until 11 o'clock, the precedents that have been cited do not fit this case at all, because in all the precedents the recess was not taken beyond the hour set for the beginning of the coming legislative day, as fixed by standing order of the House. This case is different; but the House having, in fact, recessed, having manifested its will to go into recess until 11 o'clock to-day, it seems to the Chair that the various rules of the House have been set aside by that action of the House, and that the House is still in session as of the legislative day of yesterday.

3357. The motion for a recess is not in order in the Committee of the Whole.

On July 19, 1919,² the Committee of the Whole House on the state of the Union had under consideration the bill (H. R. 6810) the prohibition enforcement bill.

Mr. William W. Venable, of Mississippi, proposed an oral amendment to the bill.

Mr. Joseph Walsh, of Massachusetts, having demanded that the proposition be reduced to writing, Mr. L. C. Dyer, of Missouri, asked unanimous consent that the section be passed over temporarily to permit the formulation of the amendment.

Mr. John E. Raker, of California, objected.

Whereupon, Mr. Adolph J. Sabath, of Illinois, moved that the Committee of the Whole take a recess of 30 minutes in order to permit preparation of the proposed amendment.

The Chairman³ declined to entertain the motion and said:

The motion to take a recess in the committee is not in order.

3358. Propositions for a recess are frequently entertained by unanimous consent.

¹ Joseph G. Cannon, of Illinois, Speaker.

² First session Sixty-sixth Congress, Record, p. 2885.

³ James W. Good, of Iowa, Chairman.

An instance wherein a recess was taken subject to the call of the Speaker.

On December 22, 1926,¹ on motion of Mr. John Q. Tilson, of Connecticut, by unanimous consent, it was ordered that the House stand in recess subject to the call of the Speaker, and that the Speaker have the bells sounded 15 minutes before calling the House to order.

3359. The motion for a recess has been given temporary privilege by a resolution reported from the Committee on Rules.

On March 3, 1927,² at 9 o'clock and 56 minutes p.m., Mr. John Q. Tilson, of Connecticut, asked unanimous consent that the House take a recess until 9.30 the following morning.

Mr. Roy G. Fitzgerald, of Ohio, entered an objection.

Whereupon, Mr. Bertrand H. Snell, of New York, from the Committee on Rules, submitted the following privileged resolution.

Resolved. That immediately upon the adoption of this resolution it shall be in order to move that the House stand in recess.

The resolution was agreed to and, on motion of Mr. Tilson, the House stood in recess until 9.30 o'clock the next morning.

3360. Instance wherein, under special order, the Chairman of the Committee of the Whole declared the committee in recess from one calendar day to another.

Under provisions of a special rule for the consideration of a bill, the Chairman of the Committee of the Whole declared the committee in session from day to day without the House having adjourned, recessed, or convened, and without the Speaker appearing in the chair.

On April 8, 1908,³ the House agreed to the following resolution reported by Mr. John Dalzell, of Pennsylvania, from the Committee on Rules.

Resolved, That on this day and on Thursday of this week the House shall take a recess at 5 o'clock p.m. until 11.30 a.m. of the next Calendar day; that on Friday, April 10, at 11.30 a.m., the Speaker shall declare the House in Committee of the Whole House on the state of the Union for the consideration of H. R. 20471, the naval appropriation bill; that at 5 o'clock p. m. on Friday, April 10, the Chairman of the Committee of the Whole House on the state of the Union shall declare the committee in recess until 11.30 a. m. on Saturday, April 11; that at 5 o'clock p. m. Saturday, April 11, the Chairman of the Committee of the Whole House on the state of the Union shall declare the committee in recess until 11.30 o'clock a. m. on Monday, April 13.

Under this resolution, the House resolved into the Committee of the Whole House on the state of the Union for the consideration of the naval appropriation bill with Mr. James R. Mann, of Illinois, in the Chair, and continued in session until 5 o'clock p. m. when the Chairman announced:

The hour of 5 o'clock having arrived under the order of the House the Committee of the Whole House on the state of the Union will stand in recess until 11.30 o'clock to-morrow morning.

On the following day, the recess having expired, the Committee of the Whole, at 11 o'clock and 30 minutes a. m., was called to order by Mr. Mann as Chairman, under the rule, and resumed consideration of the naval appropriation bill.

¹ Second session Sixty-ninth Congress, Record, p. 961.

² Second session Sixty-ninth Congress, Record, p. 5885.

³ First session Sixtieth Congress, Record, p. 4505.

3361. A resolution providing for the holiday recess adjournment and not reported by the Committee on Rules is without privilege.

On December 22, 1932,¹ Mr. Henry T. Rainey, asked unanimous consent for the present consideration of the following:

Resolved, That when the House adjourns on Friday, December 23, 1932, it stand adjourned until 12 o'clock meridian Tuesday, December 27, 1932.

Mr. Bertrand H. Snell, of New York, reserved the right to object, and inquired if the resolution was not privileged.

The Speaker² replied that it was not a privileged resolution, and could be considered only by unanimous consent.

3362. The Committee of the Whole may not recess except by permission of the House.

On May 7, 1926,³ the business on the Speaker's table having been disposed of, Mr. John Q. Tilson, of Connecticut, asked unanimous consent that the Committee of the Whole House on the state of the Union be authorized at any time prior to 5:30 o'clock that afternoon to recess until 8 o'clock p.m.

Mr. Thomas L. Blanton, of Texas, made a point of order that a recess could not be taken by Committee of the Whole.

The Speaker⁴ said:

It can if the House gives unanimous consent; it can not be done by the committee itself. Is there objection to the request of the gentleman from Connecticut?

The request being agreed to, the House subsequently resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the farm relief bill.

At 5 o'clock and 20 minutes p.m. Mr. Gilbert N. Haugen, of Iowa, moved that the committee take a recess until 8 o'clock.

The Chairman⁵ said:

The Chair does not think that is necessary. Under the order of the House the committee will now stand in recess until 8 o'clock p.m.

At 8 o'clock p.m., the recess having expired, the committee resumed its session.

¹ Second session Seventy-second Congress, Record, p. 921.

² John N. Garner, of Texas, Speaker.

³ First session Sixty-ninth Congress, Record, p. 8911.

⁴ Nicholas Longworth, of Ohio, Speaker.

⁵ Carl E. Mapes, of Michigan, Chairman.